

STATE OF SOUTH CAROLINA)	BEFORE THE CHIEF PROCUREMENT OFFICER
COUNTY OF RICHLAND)	
)	
IN THE MATTER OF:)	DETERMINATION
CANCELLATION OF AWARD)	
)	CASE NO.: 2008-149
MATERIALS MANAGEMENT)	
OFFICE)	
)	POSTING DATE:
)	
TRUCK, PICK-UP, 4 X 2,)	NOVEMBER 7, 2008
INTERMEDIATE, EXTENDED CAB)	
IFB NO. 5400000544)	
<u>CONTRACT NO. 4400000390</u>)	

This matter is before the Chief Procurement Officer (CPO) pursuant to a request (enclosed) from the State Procurement Office (SPO) under the provisions SC Code Ann §11-35-1520(7) and SC Regulation 19-445.2085(C) to cancel its award to Love Chevrolet Company (Love) prior to performance due to an administrative error.

CPO FINDINGS

1. The solicitation proceeded along the following timeline:

Pre- Solicitation Conducted:	August 21, 2008
Solicitation Issued:	August 29, 2008
Pre-Bid Conference Conducted:	September 9, 2008
Amendment #1 Issued:	September 12, 2008
Solicitation Opened:	September 30, 2008
Award Issued:	October 14, 2008
Love Chevy Award Suspended:	October 24, 2008

2. The bids received for this item were as follows:

<u>Bidder</u>	<u>Base Bid</u>
Herndon Chevrolet	\$15,066
Love	15,890

3. As explained in the IFB, and practiced by MMO for many years, for vehicles, MMO determines the lowest bidder based upon a life cycle cost analysis. Factors, with cost adjustments are entered into spreadsheets to determine each vehicle's life cycle cost.

4. On October 14, 2008, after applying the life cycle cost analysis, MMO posted an intent to award to Love.

5. On October 15, 2008, Gary Hodgins, MMO Procurement Manager II, asked the CPO to cancel the award to Love after award, but prior to performance, under authority of SC Reg. 19-445.2085(C) due to an administrative error.

According to Mr. Hodgins, he entered Herndon's base bid amount of \$15,066 for both Herndon and Love. A review of the bids confirms Mr. Hodgins's belief.

DETERMINATION

Mr. Hodgins entered the base bid of Herndon for both Herndon and Love into the life cycle cost spread sheet by mistake. He then determined Love to be the lowest responsible and responsive bidder, and issued an intent to award.

However, an accurate evaluation of the bids should have been as follows:

<u>Bidder</u>	<u>Base Bid</u>	<u>Adjustments</u>		<u>Evaluated Bid</u>
		<u>Adds</u>		<u>Deducts</u>
Herndon	\$15,066	\$1,054 (\$320)		\$15,800
Love	15,890	1,022 (476)		16,436

It is determined that an error was made by MMO while entering the base bid amounts into the life cycle cost spreadsheet that caused an error in the reporting of the award for this line item. Herndon was the low bidder. The award was issued to Love in violation of law. Therefore, the award is cancelled in accordance with SC Reg. 19-445.2085 (C).



R. Voight Shealy
Chief Procurement Officer
For Supplies and Services

November 7, 2008

STATEMENT OF RIGHT TO ADMINISTRATIVE REVIEW

The South Carolina Procurement Code, in Section 11-35-4410, subsection (1)(b) states:

(1) Creation. There is hereby created the South Carolina Procurement Review Panel which shall be charged with the responsibility to review and determine de novo:

(b) requests for review of other written determinations, decisions, policies, and procedures arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the provisions of this code and the ensuing regulations; except that a matter which could have been brought before the chief procurement officers in a timely and appropriate manner pursuant to Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, must not be the subject of review under this paragraph. Requests for review pursuant to this paragraph must be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of the written determinations, decisions, policies, and procedures.

Copies of the Panel's decisions and additional information regarding the protest process is available on the internet at the following web site: www.procurementlaw.sc.gov

FILE BY CLOSE OF BUSINESS: Requests must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 83.1 of the 2008 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410(4). . . . Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." 2008 S.C. Act No. 310, Part IB, § 83.1. PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

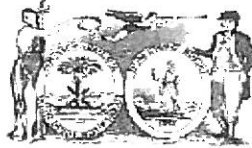
LEGAL REPRESENTATION: In order to prosecute an action before the Panel, a business must retain a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003).

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State Budget and Control Board
PROCUREMENT SERVICES DIVISION

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R. VOIGHT SHEALY
MATERIALS MANAGEMENT OFFICER

TO: R. Voight Shealy, Chief Procurement Officer
Materials Management Office

FROM: John R. Stevens, CPPB, CPM, State Procurement Officer

DATE: October 20, 2008

RE: **5400000544 – VEHICLES-PICKUPS-STATEWIDE TERM CONTRACT.**

The above referenced contract award for

Item 00003 TRUCK, PICK-UP, 4 X 2, INTERMEDIATE, EXT

should be canceled prior to performance in accordance with SC Regulation 19-445.2085, C, Cancellation of Award Prior to Performance, (7), which reads in part:

C. Cancellation Of Award Prior To Performance.

When it is determined after an award has been issued but before performance has begun that the State's requirements for the goods or services have changed or have not been met, the award or contract may be canceled and either reawarded or a new solicitation issued, if the Chief Procurement Officer determines in writing that:

(7) Administrative error of the procuring agency discovered prior to performance

Per the attached memorandum from Procurement Officer Gary Hodgins, the State issued an Intent to Award in error to Love Chevrolet based on an erroneous entry into the Life Cycle Cost Spreadsheet. By entering the incorrect base price, the evaluated amounts were determined in error.

The correct base prices are:

Herndon Chevrolet: \$15,066
Love Chevrolet: \$15,890

The correct evaluated amounts are:

Herndon Chevrolet:	\$15,800
Love Chevrolet:	\$16,436

The State Procurement Office requests that you approve cancellation of Contract #4400000390 to Love Chevrolet.

Thank you for your review and consideration of this request.

MEMORANDUM
SOLICITATION # 5400000544
CONTRACT # 4400000390

October 15, 2008

When evaluating offers from Love Chevrolet and Herndon Chevrolet I incorrectly used Herndon's base price of \$15,066 for both vendors. Love actually had a base price of \$15,890. Using the "adds" and "deducts", Love's evaluated amount should have been \$16,436 instead of \$15,612. Herndon's evaluated amount remains correct at \$15,800. Contract #4400000390 needs to be cancelled and a new contract awarded to Herndon.

Gary Hodgins